

Appl. No. 10/699,351
Att. Docket No. 9129L
Reply to Office Action of December 9, 2005
Customer No. 27,752

REMARKS

Claims 1-79 are pending in the present application. The Examiner has restricted prosecution of the application stating that the application contains claims directed to patentably distinct inventions. The Examiner states that claims 37-48, claims 49-58, and claims 71-78 are drawn to separate, unrelated inventions, that the searches for each group are not co-extensive and would result in undue burden to the Examiner. In addition, the Examiner states that claims 1-79 are generic to a plurality of disclosed patentably distinct species comprising compositions comprising a stiffening agent and a lipase inhibitor, and thus requires election of a single disclosed species of both a stiffening agent and a lipase inhibitor.

The Examiner states that claims 1-36, 59-70 and 79 will be combined with elected Group I, Group II or Group III.

Applicants assert that if the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though the Examiner is of the viewpoint that the claims should otherwise be restricted. See MPEP 803. Examiner simply states that it would be a burden because the searches are not co-extensive. Applicants traverse this rejection, and assert that the searches would be co-extensive. The first group includes a stiffening agent and optionally a lipase inhibitor. The second group includes a stiffening agent and a lipase inhibitor, and the third group includes a stiffening agent, a lipase inhibitor and a polymeric foam. Thus, the searches would be related with respect to the compounds.

However, in response to the election requirement, Applicants provisionally elect, with traverse, the claims of Group II, which include claims 49-58 and claims 1-36, 59-70 and 79 with respect to stiffening agent and lipase inhibitor. Applicants further elect a stiffening agent of R-COOR' including fatty acids (components in which R' is hydrogen), i.e. R-COOH, and the salts of the fatty acids. Examples are stearic acid, and its salts, for example its calcium salt, calcium stearate. Applicants further elect lipase inhibitors lipstatin and tetrahydrolipstatin (known also as (S)-1-[(2S,3S)-3-hexyl-4-oxooxetan-2-yl]methyl]dodecyl N-formyl-L-leucinate) and their derivatives.

Applicants therefore respectfully request that Examiner reconsider the Restriction Requirement and proceed to examination of the application on the merits. If the Examiner believes

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that personal contact would be beneficial for disposition of the present application, the Examiner is respectfully requested to contact the undersigned.

Respectfully submitted,



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Customer No. 27752